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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,131	04/03/2000	JOHANNES SCHRAMMEL	PHO-98633	1166

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

FLETCHER, JAMES A

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/509,131

Applicant(s)

SCHRAMMEL, JOHANNES

Examiner

James A. Fletcher

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____



ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 5. does NOT place the application in condition for allowance because: The applicant's arguments submitted 7 January 2005 have been fully considered by the examiner, but they are not persuasive.

In re pages 5 and 6, applicant's representative states: "The combined expression 'said recording medium position' in claim 1 finds clear antecedent basis in claim 1 by virtue of the recitation 'recording medium position.'"

The examiner respectfully disagrees. The recited "recording medium position" contains another adjective, modifying the meaning of the phrase, and as such, provides no antecedent basis for the claimed limitation. The examiner notes that the addition of the adjective "desired" following the word "said" in line 10 of claim 1 would not change the scope of the claim, but would certainly clarify the intent of the recitation.

In re page 7, applicant's representative states: "the Lewis tape motion pulse count or the Lewis numerical equivalent of a tape position characterizes 'said recording start moment.' This appears to be an awkward, and invalid, interpretation – holding out a tape position as 'characterizing said recording start moment.'"

The examiner respectfully disagrees. Although the examiner believes the cited passages stand on themselves, further explanation of the tape position in relation to a recording start moment is found in Col 5, lines 14-16 "an output that represents a numerical equivalent of tape position expressed in a distance away from a known reference point."

Further in re page 7, applicant's representative states: "the Office Action fails to specify what it deems in Lewis to amount to the 'recording medium starting position' of the present claim 1. Presumably the two Lewis statistics, i.e., the tape motion pulse count and numerical equivalent of tape position each represents a position."

The examiner respectfully disagrees. Lewis clearly indicates that a position on the tape where a program begins, with reference to a known reference point, which reads on the applicant's term "recording start moment," is represented by a count of the pulses in Col 5, lines 10-15.

In re page 8, applicant's representative states: "it is unclear what in Lewis can fairly be said to represent the 'starting time information characterizing said recording start moment' of the present claim 1."

The examiner again believes that the cited material is sufficient in itself, but to further explain how Lewis covers the recitation of the claim see Col 5, lines 63-67.

Further in re page 8, applicant's representative states: "It is unclear, however, how this necessary information involves time, or some hypothetical 'timer,' rather than 'numerical equivalents of tape position'... The only clocking disclosed or suggested in Lewis is that conventionally employed to drive digital circuits."

The examiner again respectfully disagrees. As is known to those familiar with the art, and as is disclosed in the applicant's specification, there is a direct correlation between the position on a video tape and the time elapsed recording or playing to that position. See the correlation between the time and position markings in the application's figures 3 and 4. Further, Lewis clearly indicates that the pulses being counted are related to the movement of the tape, as indicated in Col 5, lines 10-11.